

## Message Text

LIMITED OFFICIAL USE

PAGE 01 OTTAWA 01377 072214Z

66

ACTION EB-11

INFO OCT-01 EUR-25 ISO-00 CAB-09 CIAE-00 COME-00 DODE-00

DOT-00 INR-10 NSAE-00 RSC-01 FAA-00 L-03 TRSE-00

DRC-01 /061 W

----- 066364

P 072144Z MAY 74

FM AMEMBASSY OTTAWA

TO SECSTATE WASHDC PRIORITY 3406

LIMITED OFFICIAL USE OTTAWA 1377

E.O. 11652: N/A

TAGS: ETRN, CA

SUBJECT: CIVAIR: PRECLEARANCE AGREEMENT -- PRIVILEGES AND  
IMMUNITIES.

REF : OTTAWA 1351

1. FOLLOWING IS TEXT OF AIDE-MEMOIRE GIVEN TO EMBASSY  
AFTERNOON MAY 7.

BEGIN TEXT

WITH REFERENCE TO QUESTIONS RAISED BY THE UNITED STATES EMBASSY  
REGARDING THE STATUS OF CUSTOMS PRECLEARANCE OFFICES, THE  
COMPETENT CANADIAN LEGAL AUTHORITIES HAVE STUDIED THIS  
MATTER IN THE LIGHT OF EXISTING CANADIAN LAW AND HAVE COME  
TO THE FOLLOWING CONCLUSIONS:

(1) THE MATTER OF FULL POLICE PROTECTION FOR PRECLEARANCE  
FACILITIES AND ARCHIVES IN CANADA IS DEALT WITH IN ARTICLE  
V OF THE DRAFT AGREEMENT ON AIR TRANSPORT PRECLEARANCE,  
AND SHOULD POSE NO PROBLEM.

(2) TO THE EXTENT THAT THE ARCHIVES AND EQUIPMENT OF THE  
AMERICAN INSPECTION AGENCIES OPERATING PRECLEARANCE  
FACILITIES IN CANADA WOULD BE THE PROPERTY OF THE UNITED  
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 OTTAWA 01377 072214Z

STATES AND WOULD BE DEVOTED TO A PURELY PUBLIC PURPOSE,

SUCH PROPERTY SHOULD BE ABLE TO TAKE ADVANTAGE OF THE PRINCIPLE STATED BY MR. JUSTICE RAND OF THE SUPREME COURT OF CANADA IN ST. JOHN V. FRASER-BRACE. MR. JUSTICE RAND THERE REFERRED TO THE IMMUNITY OF A SOVEREIGN AND THE PROPERTY OF SOVEREIGN AS EXTENDING "TO ALL PROCESSES OF COURTS, ALL INVASIONS OR INTERFERENCES WITH THEIR PERSONS OR PROPERTY AND ALL APPLICATION OF COERCIVE PUBLIC LAW BROUGHT TO BEAR AFFIRMATIVELY, INCLUDING TAXATION". ACCORDINGLY, UNDER THIS JURISPRUDENCE, THIS PROPERTY BELONGING TO THE UNITED STATES GOVERNMENT AND DEVOTED TO PUBLIC AND GOVERNMENTAL ENDS COULD BE CONSIDERED TO BE IMMUNE FROM SUCH COERCIVE PUBLIC LAWS AS THOSE RELATING TO TAXATION AND, PROBABLY AS WELL, FROM ANY DIRECT FORM OF LEGAL PROCESS.

THE DEPARTMENT OF EXTERNAL AFFAIRS WOULD BE PREPARED TO DISCUSS FURTHER THESE AND RELATED MATTERS AFTER SIGNATURE OF THE AGREEMENT ON AIR TRANSPORT PRECLEARANCE.  
END TEXT

2. PLEASE ADVISE REACTION.

PORTER

LIMITED OFFICIAL USE

NNN

## Message Attributes

**Automatic Decaptioning:** X  
**Capture Date:** 01 JAN 1994  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** DIPLOMATIC PRIVILEGES, CIVIL AVIATION, AVIATION AGREEMENTS, FLIGHT CLEARANCES, CUSTOMS CLEARANCES, NEGOTIATIONS  
**Control Number:** n/a  
**Copy:** SINGLE  
**Draft Date:** 07 MAY 1974  
**Decaption Date:** 01 JAN 1960  
**Decaption Note:**  
**Disposition Action:** RELEASED  
**Disposition Approved on Date:**  
**Disposition Authority:** garlanwa  
**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 28 MAY 2004  
**Disposition Event:**  
**Disposition History:** n/a  
**Disposition Reason:**  
**Disposition Remarks:**  
**Document Number:** 1974OTTAWA01377  
**Document Source:** CORE  
**Document Unique ID:** 00  
**Drafter:** n/a  
**Enclosure:** n/a  
**Executive Order:** N/A  
**Errors:** N/A  
**Film Number:** D740110-0758  
**From:** OTTAWA  
**Handling Restrictions:** n/a  
**Image Path:**  
**ISecure:** 1  
**Legacy Key:** link1974/newtext/t19740568/aaaaciya.tel  
**Line Count:** 83  
**Locator:** TEXT ON-LINE, ON MICROFILM  
**Office:** ACTION EB  
**Original Classification:** LIMITED OFFICIAL USE  
**Original Handling Restrictions:** n/a  
**Original Previous Classification:** n/a  
**Original Previous Handling Restrictions:** n/a  
**Page Count:** 2  
**Previous Channel Indicators:**  
**Previous Classification:** LIMITED OFFICIAL USE  
**Previous Handling Restrictions:** n/a  
**Reference:** OTTAWA 1351  
**Review Action:** RELEASED, APPROVED  
**Review Authority:** garlanwa  
**Review Comment:** n/a  
**Review Content Flags:**  
**Review Date:** 15 APR 2002  
**Review Event:**  
**Review Exemptions:** n/a  
**Review History:** RELEASED <15 APR 2002 by kelleyw0>; APPROVED <23 JUL 2002 by garlanwa>  
**Review Markings:**

Declassified/Released  
US Department of State  
EO Systematic Review  
30 JUN 2005

**Review Media Identifier:**  
**Review Referrals:** n/a  
**Review Release Date:** n/a  
**Review Release Event:** n/a  
**Review Transfer Date:**  
**Review Withdrawn Fields:** n/a  
**Secure:** OPEN  
**Status:** NATIVE  
**Subject:** CIVAIR: PRECLEARANCE AGREEMENT -- PRIVILEGES AND IMMUNITIES.  
**TAGS:** ETRN, CA, US  
**To:** STATE  
**Type:** TE  
**Markings:** Declassified/Released US Department of State EO Systematic Review 30 JUN 2005